

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

I.U.P.A.T. DISTRICT COUNCIL #57	)	
COMBINED FUNDS on behalf of the	)	
TRUSTEES OF THE I.U.P.A.T.	)	Civil Action No. 05 - 107
WELFARE FUND OF WESTERN PA	)	
AND THE I.U.P.A.T. WESTERN PA	)	Judge Gary L. Lancaster
ANNUITY FUND AND THE	)	Magistrate Judge Lisa Pupo Lenihan
INTERNATIONAL BROTHERHOOD	)	
OF PAINTERS AND ALLIED TRADES	)	
DISTRICT COUNCIL #57,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
RICHARD D. STUMME and DONNA L.	)	
STUMME individually and t/d/b/a RICK	)	
STUMME PAINTING and CEILING	)	
PRO OF IRWIN, INC.,	)	
	)	
Defendants.	)	

**ORDER**

The above captioned case was received by the Clerk of Court on January 28, 2005, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings, in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates, on February 1, 2005.

The magistrate judge's Report and Recommendation (Doc. No. 12), filed on July 29, 2005, recommended that Defendant's Motion to Dismiss (Doc. No. 8) be denied. Service was made on all counsel of record. The parties were advised they were allowed ten (10) days from the date of service to file written objections to the report and recommendation. No objections have been filed. After review of the pleadings and documents in the case, together

with the report and recommendation, the following order is entered:

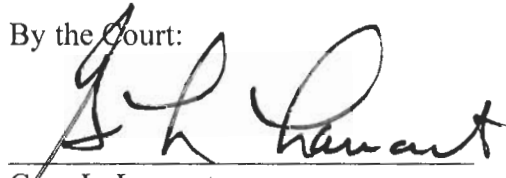
AND NOW, this 20<sup>th</sup> day of Aug, 2005;

**IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss (Doc. No. 8) is  
**DENIED.**

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 12) of Magistrate Judge Lenihan, dated July 29, 2005, is adopted as the opinion of the court.

Dated:

By the Court:

  
\_\_\_\_\_  
Gary L. Lancaster  
United States District Judge

cc: Lisa Pupo Lenihan  
United States Magistrate Judge

Jeffrey J. Leech, Esquire  
Neil J. Gregorio, Esquire  
Tucker Arensberg, P.C.  
1500 One PPG Place  
Pittsburgh, PA 15222

Robert J. Blumling, Esquire  
Michael D. Klein, Esquire  
Blumling & Gusky, LLP  
1200 Koppers Building  
Pittsburgh, PA 15219